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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of
Timothy Van Hook, et al.
Application No. 09/223,046
Filed: December 30, 1998
Attorney Docket No. 0056.10US.

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DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181, received in the United States Patent and Trademark Office (USPTO) on June 30, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice of Allowance and Fee(s) Due, mailed September 14, 2005, which set a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed May 9, 2006.

Petitioner states that Applicant submitted the Issue Fee Transmittal on December 13, 2005 with the understanding that two previously paid issue fee and publication fee would be re-applied. Also, submitted were an Amendment Under 37 CFR 1.312 and replacement drawing. Petitioner request refunds of overpaid fees.

In support of this assertion, Petitioner has submitted a copy of Part B - Fee(s) Transmittal (Transmittal), and a copy of a return postcard, which acknowledges receipt of the Fee(s) Transmittal, Amendment Under 37 CFR 1.312, replacement drawing sheet, Request for Refund, and copies of two previously submitted Issue Fee Transmittal on December 13, 2005 by the USPTO, as evidenced by the "Office Date" stamp thereon.

MPEP 503 states the following:

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.

In view of the above, the holding of abandonment is hereby withdrawn.

As requested, the issue fee previously paid on December 10, 2003 will be re-applied to the Fee(s) Transmittal received December 13, 2005. The request for any other overpayment will be forwarded to the Office of Finance.

The Amendment will be forwarded Examiner, Larry Donaghue, Art Unit 2154, for consideration.

The application will be forwarded to the Publishing Division to be processed into a patent.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-308-9250 ext 163.

Nina Motley
Quality Control Assistant
Office of the Director
Office of Patent Publication